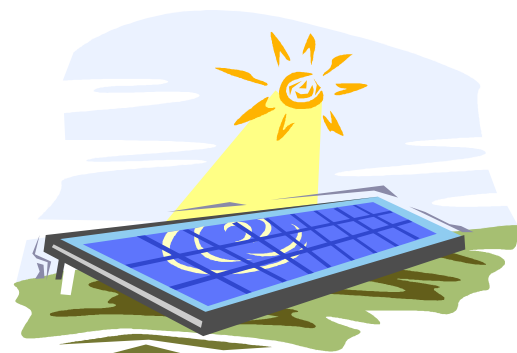


SADC Status Report to the NJ Farm Bureau Convention



November 15, 2010



SADC Hot Issues

■ Right to Farm

- Appellate RTF Decision - Raub Farm
- Ag Tourism / Farm Markets AMP Development
- Solar Systems – AMP Proposal

■ Stewardship

- Interpreting the Deed of Easement – Proposed Guidelines

■ Acquisition Program Status

Right To Farm - Issue #1

Raub Decision

- Nuisance Complaint
 - Wrongfully decided by (local) Superior Court
 - Punitive damages awarded to neighbor
 - NJ Appellate court overturned lower court
 - Reaffirmed CADB, not the court, was the correct venue to hear the matter
 - Punitive damages reversed; matter remanded to CADB
- Watershed decision for RTF nuisance complaints – binding statewide

Right To Farm - Issue #2

Agritourism AMP Development

- AMP working group created April, 2010
 - Farm Bureau
 - Rutgers
 - Viticulture (M. Mattarazzo)
 - Nursery (L. Kuser; N. McKittrick)
 - Ag Tourism (R. Norz)
 - Equine (S. Dey)
 - Fruit & Vegetables (J. Giamarese)
 - Local government (L. Specca)
 - CADB (D. Kennedy – Burlington)
 - NJDA (W. Walker)
 - SADC

AMP: Agritourism / Farm Markets

- Currently, RTF Act protects:
 - “Farm Markets” – sale of ag. output and “products that contribute to farm income”. For retail markets:
 - 51% of annual gross sales from farm’s ag. output; OR
 - 51% of sales area devoted to farm’s ag. output
 - “Agriculture-related educational activities”*
 - “Farm-based recreational activities”*
 - * = must be related to marketing ag. output of farm
- But what about other kinds of operations (CSAs, pick your own, farm stands, etc.)?
- What about related activities (agricultural fairs, open houses, special events)?

AMP: Ag-tourism / Farm Markets

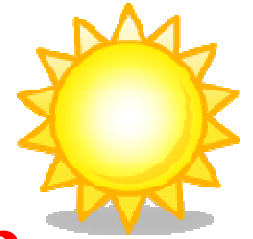
- Proposed AMP Approach: put all of these activities under one umbrella:
 - ➔ On Farm Direct Marketing (OFDM)
- Draft definition: On-Farm Direct Marketing - “means the on-farm facilities, activities and events that are used for marketing the agricultural output of the commercial farm”

AMP: On-Farm Direct Marketing

- **OFDM Facility** – a type of farm market including the permanent & temporary structures, improvements, equipment and apparatuses necessary....
 - Includes farm stands, farm stores, PYOs, CSAs
- **OFDM Activities** – includes
 - “Agriculture-related educational activities”
 - “Farm-based recreational activities”, and
 - Ancillary entertainment-based activities (non-ag. activities commonly used on OFDM operations designed to enhance experience of buying agricultural products; ancillary and subordinate to marketing of ag. output)
- **OFDM Events** – means ag.-related events that are subordinate and accessory to, and serve to increase, the direct market sales of the agricultural output of the farm

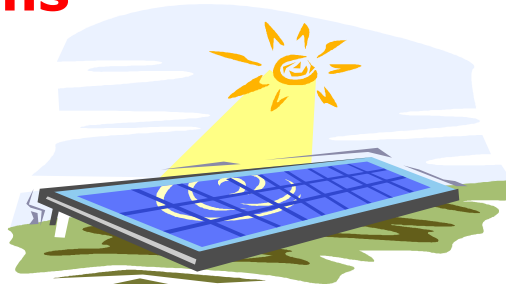
Right To Farm - Issue #3

On-Farm Solar Energy Generation



New Law: P.L. 2009, c. 213

- Defines the extent of solar, wind and biomass energy generation that is considered “agricultural” in scale by:
 - Establishing acceptable parameters for **farmland assessment** eligibility
 - Providing **right-to-farm** protection to on-farm energy generation that meets farmland assessment criteria
 - Identifying allowable limits and criteria for these activities on **preserved farms**



Farmland Assessment

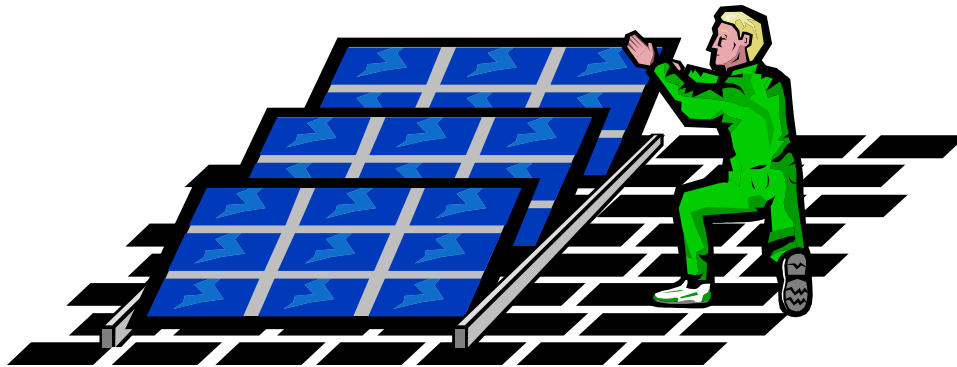


Land used for energy generation is considered to be in ag/hort use provided certain criteria are met, including:

- Energy Generation Limits
 - ✓ No more than **10 acres** in solar
 - ✓ **1:5 acre ratio** (solar to ag/hort operations)
 - ✓ No more than **2 megawatts** (MW) generated
- Land under the solar panels must be used to the greatest extent practicable for the farming of shade or other crops, or for pasture for grazing
- Owner or operator must have a conservation plan approved by the soil conservation district that addresses
 - ✓ aesthetics
 - ✓ impervious cover
 - ✓ environmental impacts, including water capture and filtration

Right to Farm

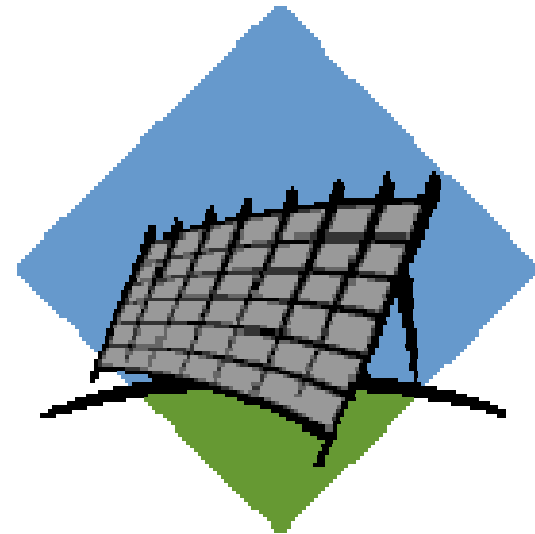
- Must meet requirements for farmland assessment, including 10 acre max., 1:5 ratio, and 2MW limit
- SADC must adopt agricultural management practice (AMP) before RTF protection is available



Proposed Solar AMP

Three major issues addressed:

- Setbacks and Screening
- Site Disturbance
- Noise



75 feet



150 feet



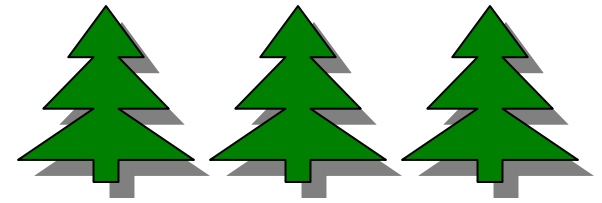
300 feet



400 feet



Proposed Setback, Screening Requirements



Mounting	System Height	Size Of Occupied Area	Minimum Setback To an Adjacent Residence Existing at the Time of System Installation and Not Located on the Commercial Farm	Minimum Setback To Property Line or Public Roadway Right of Way	Required Screening
Ground	Up to 2 feet	Up to 1 acre	200 feet	100 feet	Not Required
Ground	Greater than 2 feet up to 10 feet	Up to 1 acre	300 feet	150 feet	Not Required
Ground	Up to 10 feet	Greater than 1 acre up to 10 acres	300 feet ----- 400 feet	150 feet ----- 300 feet	Required ----- Not required
Ground	Greater than 10 feet up to 20 feet	Up to 10 acres	300 feet ----- 500 feet	300 feet ----- 400 feet	Required ----- Not required

Solar energy facilities cannot exceed a maximum height of 20 feet





Soil Disturbance Requirements

Overall goal to ensure land can be returned to ag/hort production

- No more than 1 acre of site disturbance
 - Includes grading, soil removal, excavation, compaction
- Non-permanent mounting methods preferred
 - Exception with written justification from licensed professional engineer
- Concrete and asphalt prohibited, except for mounting inverters/system components or if deemed necessary by licensed professional engineer



Noise



Solar energy generation systems must be designed to comply with either of the following standards for sound emissions:

- The sound level cannot exceed 40 dBA when measured at any point on the property line of the commercial farm;

or

- The sound level cannot exceed the ambient sound levels measured on the property line as measured in octave band sound level meter measurements (the Lmin or L90 broadband values)

Preserved Farms

Energy generation systems are allowed provided they meet certain criteria, including:



- Are limited in annual energy generation capacity to:
 - ✓ **110%** of the previous calendar year's energy demand, or
 - ✓ to occupying no more than **1 percent** of the area of the entire farm
- Must be owned by the landowner or will be owned by the landowner on conclusion of a purchase agreement
- Must be used to provide power or heat to the farm, either directly or indirectly, or to reduce energy costs on the farm through net metering or similar programs
- Cannot interfere significantly with use of land for agricultural or horticultural production

Preserved Farms

- Applications must also meet **Farmland Assessment** criteria (10 acre max., 1:5 ratio, 2 MW limit)
- SADC must adopt regulations prior to being able to approve facilities on preserved farmland (2011)
- Easement holder (county or nonprofit) has 30 day comment period on applications to construct energy generation facilities



SADC

Stewardship Issues



- Interpreting the Deed of Easement
- Recent issues:
 - Recreational use requests
 - CADB approvals/denials/interpretations
 - Massive soil disturbance case
 - Inconsistent monitoring procedures & data
- SADC DoE Subcommittee created to:
 - Clarify DoE provisions
 - Ensure consistency throughout the state, over time
- “Guidance Document” issued for comment in April

Deed of Easement Guidance Document



Report #1: Four Main Principles:

1. Agricultural production must be the first priority use of the land;
2. The deed of easement applies to the entire property- fields, woods, slopes, wetlands;
3. Must read the entire deed together – no one provision trumps others;
4. Any activities that are prohibited are prohibited at all times, regardless of duration or frequency;

Deed of Easement Guidance Document



Report #2: Recreational Uses

1. Cannot “dedicate” land or structures to recreational use;
2. Land must be used in its existing condition (deed provision);
3. No commercial recreational uses;
4. Passive recreational uses permitted;
5. Agritourism activities directly related to ag. production are permitted.

Deed of Easement Guidance Document



- Main comments:
 - Adopt thru rule-making process, not thru “guidance” document;
 - Don’t adopt: continue case-by-case approach
 - Don’t act on Recreational Uses document until after ag-tourism AMP is adopted;
- Status:
 - Amended version to go back to SADC, based on comments received
 - SADC will decide timing of moving forward
 - Will likely pursue thru rule-making process

Acquisition Program Status

■ Funding Status


- Nov. 2009 bond referendum funds (\$146M)
- To provide 2 rounds of funding (\$73M each year)
- Awaiting administration decision to sell bonds, raise funds
- SADC approved allocation of 1st funding round in May

Counties	\$ 39.0 Million
Municipalities	\$ 23.0 Million
Non-Profits	\$ 8.2 Million
State Acquisition	\$ 14.7 Million
<u>Administration</u>	<u>\$ 3.6 Million</u>
Total	\$ 88.5 Million



■ Preservation Status

- 2000th farm will enter this fiscal year
- 189,000 acres to date



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